

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

HERBERT R. HILDERBRAND

PLAINTIFF

V.

CIVIL ACTION NO.3:09CV243-DPJ-FKB

LEVI STRAUSS & COMPANY

DEFENDANT

**PLAINTIFF'S RESPONSE IN OPPOSITION TO MOTION FOR ADMISSION
PRO HAC VICE BY COMITY OF LISA J. PLANK**

COMES NOW Herbert R. Hilderbrand, by and through his attorneys of record and pursuant to Rule 83.1(d)(6) of the Local Uniform Civil Rules of the United States District Courts for the Northern and Southern District of Mississippi and files this his objection to the Motion for Admission *Pro Hac Vice* by Comity of Lisa J. Plank and would state as follows:

1. The first Motion by Lisa J. Plank for Admission *Pro Hac Vice* by Comity was filed February 10, 2010. The second Motion for Admission *Pro Hac Vice* by Comity was filed February 18, 2010. The Complaint in this matter was filed April 15, 2009. Counsel for Defendant, Michael W. Foster filed his Motion for Admission *Pro Hac Vice* on May 1, 2009.¹ For approximately the last seven months, counsel for Plaintiff has dealt exclusively with Lisa J. Plank, an Attorney with Foster Employment Law.

¹Michael Foster filed a Motion for Admission *Pro Hac Vice* in another case pending in the United States District Court for the Southern District of Mississippi, Cause No. 3:09cv340 DPJ-JCS, *Felicia Tucker v. Levi Strauss & Company*. The Affidavit of Michael Foster failed to mention his being currently admitted *pro hac vice* in the instant matter one month earlier. The other requested information as required under Local Uniform Civil Rule 83.1(d)(4)(H) was not provided. (See Motion and exhibits attached as Exhibit "1". Also see Document #3 filed in this matter. The required information was not provided in the instant matter)

2. Lisa J. Plank first failed to pay the filing fee as required under Local Uniform Civil Rule 83.1(d)(5). Her admission was denied on February 18, 2010.

3. Lisa J. Plank has executed seven Declarations over the course of this litigation identifying herself as counsel for the Defendant, Levi Strauss and Company. (See Documents 39-3, 42-3, 56-2, 61, 63-2, 64 and 80-2)

4. Said Declarations have been used in support of, or in response to various Motions filed by both the Plaintiff and Defendant. Lisa Plank has not been admitted *pro hac vice* to practice in the United States District Court for the Southern District of Mississippi, Jackson Division to date.

5. The Declaration by Ms. Plank in support her Motion for Admission *Pro Hac Vice* by Comity clearly states she has “read and is familiar with the Uniform Local Rules of the United States District Court for the Northern and Southern Districts of Mississippi.”

6. Lisa J. Plank and/or Michael W. Foster have submitted pleadings and Declarations with no electronic signature. (See Documents 38, 39-3, 41)

7. Counsel for the Defendant has submitted pleadings with the Certificate of Service signed by a non-attorney. (See Documents 55, 61, 63, 64 and 94)

8. Lisa Plank has signed Good Faith Certificates filed in this Court as the Attorney for the Defendant. (See Documents 39-3, 42-3 and 80-2)

9. Correspondence of Lisa J. Plank has been exhibited in support of, and defense of motions throughout this litigation holding herself out as one of the attorneys for the Defendant.

10. This Court in its February 5, 2010 Order specifically noted counsel for the Defendant’s failure to have the signature of local counsel on all pleadings. To date, approximately 25 electronic filings with the Court by the Defendant and have not included the signature of local

counsel. (*See* Documents 17, 19, 20, 26, 38, 41, 42, 43, 46, 47, 48, 55, 56, 62, 63, 66, 67, 73, 79, 80, 88, 89, 90, 93, 94)

11. Lisa J. Plank and co-counsel have repeatedly failed to follow the Local Uniform Civil Rules of the United States District Courts for the Northern and Southern District of Mississippi related to Court filings necessitating a correction notice by the Clerk's office. (See attached Exhibit "2" delineating Court filings necessarily requiring corrections on the Court's initiative.)

WHEREFORE PREMISES CONSIDERED, the Applicant, Lisa J. Plank, has failed to follow the Rules of this Court in representing the Defendant, Levi Strauss and Company. Plaintiff, Herbert Hilderbrand respectfully requests this Court deny Lisa J. Plank's Motion for Admission *Pro Hac Vice* by Comity and any other relief deemed appropriate under the circumstances.

Dated, this the 18th day of February, 2010.

Respectfully submitted,

s/Marjorie S. Busching
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CERTIFICATE OF SERVICE

I, Marjorie S. Busching, certify that on February 18, 2010, I electronically filed the foregoing document with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

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Dated, this the 18th day of February, 2010.

s/Marjorie S. Busching
Marjorie S. Busching